

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JOHN E. WINFIELD,)
)
)
Petitioner,)
)
vs.) Case No. 4:03CV192-DJS
) CAPITAL HABEAS
DON ROPER,)
)
Respondent.)

ORDER

Now before the Court is a motion by petitioner's appointed counsel asking the Court to authorize payment of attorney's fees and expenses for their representation of petitioner in Missouri executive clemency proceedings. Such authorization is within the scope of 21 U.S.C. § 848(q)'s provisions for appointed counsel in federal capital cases and the Criminal Justice Act, 18 U.S.C. § 2006A(c). The request in this case appears to satisfy the three requirements articulated by the Eighth Circuit in Hill v. Lockhart, 992 F.2d 801, 803 (8th Cir. 1993), namely that (1) this is a non-frivolous federal habeas corpus proceeding, (2) Missouri law provides no avenue to obtain compensation for these services, and (3) the request is made prior to performance of the services.

Accordingly,

IT IS HEREBY ORDERED that the motion of Joseph W. Luby and Kent E. Gipson to authorize attorney fees and expenses for

representation in ancillary proceedings [Doc. #80] is granted as follows.

IT IS HEREBY ORDERED that Joseph W. Luby and Kent E. Gipson are authorized to be compensated for their representation of petitioner in an application for executive clemency at a rate of \$166.00 per hour plus expenses, in the same manner as appointed counsel have previously been compensated in these proceedings.

Dated this 25th day of May, 2007.

/s/Donald J. Stohr
United States District Judge